

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SFPP, LP pursuant to Commission
Resolution No. O-0043 issued October 24, 2002.

Application 03-02-027
(Filed February 21, 2003)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Rules of Practice and Procedure,¹ this ruling designates the principal hearing officer and addresses the scope of the proceeding following a prehearing conference held on May 13, 2003.

Background

On February 21, 2003, SFPP, LP (SFPP) filed an application pursuant to Commission Resolution (R.) O-0043 issued October 24, 2002, instructing SFPP to file an application to justify its current rates for intrastate pipeline transportation of refined petroleum products. In R. O-0043, the Commission indicated its intention to review the overall reasonableness of SFPP's existing intrastate rates in relation to a current cost-of-service showing. This cost-of-service showing will be useful to the Commission in deciding the appropriate rate scheme for SFPP.

¹ Unless otherwise indicated, all citations to sections refer to the Public Utilities Code and citations to rules refer to the Commission's Rules of Practice and Procedure (Rules), which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

There are presently three other proceedings pending before the Commission that involve the rate SFPP charges for transportation, Case (C.) 97-04-025 (on rehearing), C.00-04-013, and Application (A.) 00-03-044. Depending on the outcome of those proceedings and whether market rates or cost-of-service rates are adopted for SFPP's rates, then this 2003 application will make the appropriate adjustments to the rate needed to reflect changed conditions.

Electric Surcharge

In A.03-02-027, SFPP requests authorization to recover by electric surcharge the incremental costs for Decision (D.) 01-01-018 and D.01-03-082, the 1-cent/3-cent electric surcharge decisions. SFPP's request for the electric surcharge cannot be decided until the Commission determines whether SFPP's overall, system-wide intrastate pipeline transportation rates are reasonable or not, and then, to what extent, if any, the electric surcharge provisionally approved by R. O-0043 should be refunded and/or reduced if SFPP's rates are found to be unreasonable.

Ratesetting Mechanism

Under cost-of-service ratemaking, the regulated rates are assumed to cover all reasonable costs. However, when a unique event creates new costs, as did the 1-cent/3-cent decisions, then a cost-of-service company could justify the electric surcharge to recover a new expense.

SFPP, however, is requesting that the Commission allow it market-based rates. SFPP justifies this request by arguing that even though it is a regulated utility, it faces competition from alternatives such as tanker-trucks, barges, and other pipelines. Therefore, SFPP should be allowed to set prices for its pipeline based on the prevailing market price that is set by the highest cost of the last incremental provider. Since customers have a "choice" to either use

SFPP, or one of the alternatives, SFPP cannot set its price for its pipeline based on its own costs, but by the prevailing market rate. That would mean that SFPP cannot seek an immediate pass-through of the electric surcharge unless all its competitors face substantially the same increase so that the market as a whole rises.

Scoping Memo

The scope of this proceeding is whether SFPP should be permitted an electricity surcharge. However, before the Commission can address this issue as framed in R. O-0043, the Commission must determine what regulatory ratesetting mechanism is appropriate for SFPP, and whether or not SFPP's intrastate pipeline transportation rates are reasonable. The Commission already has a complete record in the three pending proceedings on the topic of whether under the applicable "totality of circumstances" test, the rates SFPP is charging for pipeline use should be evaluated under only a cost-of-service test, or a market-based test should also be used. Therefore, this proceeding does not have to address options to the cost-of-service ratesetting mechanism.

- R. O-0043 directed SFPP to justify its rates with a cost-of-service analysis. Accordingly, the scope of this proceeding is limited to two areas: (1) if we use a cost-of-service basis, to determine for test year 2003 the reasonable revenue requirement, and (2) whether the requested electric surcharge rate increase was justified from the date of its imposition by R. O-0043 until the adoption of test year 2003 rates.

Preliminary Schedule

The parties were unable to present a schedule for this proceeding pending the issuance of the scoping memo. Within 30 days of the issuance of this memo, the parties are to meet and confer, telephonically, in person, or via e-mail, to discuss a preliminary schedule for the service of testimony and evidentiary

hearing, and present a suggested schedule to the judge. After the Assigned Commissioner and Administrative Law Judge (ALJ) review the proposed schedule, an order will issue establishing the schedule.

Categorization and Designation of Principal Hearing Officer

I affirm the preliminary categorization of ratesetting, requiring hearings. In accordance with Rules 5(k) and (l), ALJ Carol Brown is designated as the principal hearing officer for this proceeding. The *ex parte* rules as set forth in Rule 7(c) and Pub. Util. Code § 1701.3(c) are applicable.

Discovery

The Commission will not impose a discovery plan on the parties for this phase of the proceeding. Proponents may make reasonable discovery requests and recipients should strive to comply with them, both in a timely fashion. The parties should attempt to resolve any discovery disputes with a good faith meet and confer. If that attempt does not resolve the dispute, the parties are to either e-mail or conference call the judge for resolution of the dispute. Written motions may only be filed if the parties' meet- and-confer session and the judge's conference are both unsuccessful in resolving the dispute. The Commission generally looks to the California Code of Civil Procedure for guidance in resolving discovery disputes. The judge's e-mail address is cab@cpuc.ca.gov.

Service List

The official service list is now on the Commission's web page. Parties should confirm that the information on the service list and the comma-delimited file is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the judge. Parties shall e-mail courtesy copies of all served and filed documents on the entire service list, including those appearing on the list as "State Service" and "Information Only."

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding will be established after the parties submit a proposed schedule.
3. The principal hearing officer in this proceeding pursuant to Rules 5(k) and (l) of the Commission's Rules of Practice and Procedure (Rules) is Administrative Law Judge Carol Brown.
4. *Ex parte* communications are subject to Pub. Util. Code § 1701.3(c) and Rules 7(a)(1) and (c).
5. Parties shall follow the service list rules as set forth herein.

Dated June 5, 2003, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated June 5, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.